

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JENNIFER ECKHART, :
Plaintiff, : Civil Case No. 1:20-cv-05593 (RA)
: :
v. : ANSWER TO FOURTH
: AMENDED
FOX NEWS NETWORK, LLC and ED HENRY, : COMPLAINT
in his individual and professional capacities, :
: :
Defendants. : :
----- X

Defendant Fox News Network, LLC (“Fox News” or the “Company”), by and through its attorneys, Proskauer Rose LLP, submits its answer and affirmative defenses to the Fourth Amended Complaint filed by Plaintiff Jennifer Eckhart (“Plaintiff” or “Ms. Eckhart”) (the “Fourth Amended Complaint”) against Fox News and Ed Henry (“Mr. Henry”), and states as follows:

AS TO “PRELIMINARY STATEMENT”

1. Admits that Ms. Eckhart filed her original Complaint in this action in July 2020 and otherwise denies the allegations set forth in Paragraph 1 of the Fourth Amended Complaint.
2. Denies the allegations set forth in Paragraph 2 of the Fourth Amended Complaint.
3. Denies the allegations set forth in Paragraph 3 of the Fourth Amended Complaint, except admits that Mr. Henry was suspended.
4. Denies the allegations set forth in Paragraph 4 of the Fourth Amended Complaint, except denies knowledge or information about what is meant by “recently reported.”

5. Denies the allegations in Paragraph 5 of the Fourth Amended Complaint, except admits there were media reports in 2016 regarding alleged harassment by individuals at Fox News other than Mr. Henry.

6. Denies the allegations in Paragraph 6 of the Fourth Amended Complaint.

7. Denies the allegations in Paragraph 7 of the Fourth Amended Complaint except denies knowledge or information sufficient to form a belief as to the truth of what has purportedly been “reported.”

8. Denies the allegations in Paragraph 8 of the Fourth Amended Complaint, except admits that Mr. Henry was co-anchor of a three hour program, “America’s Newsroom.”

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Fourth Amended Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10 of the Fourth Amended Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 of the Fourth Amended Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Fourth Amended Complaint.

13. Paragraph 13 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 13 of the Fourth Amended Complaint.

14. Paragraph 14 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is

warranted, Fox News denies the allegations set forth in Paragraph 14 of the Fourth Amended Complaint.

15. Denies the allegations set forth in Paragraph 15 of the Fourth Amended Complaint, except admits Ms. Eckhart purports to invoke the listed statutes and regulations.

AS TO “ADMINISTRATIVE PREREQUISITES”

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 16 of the Fourth Amended Complaint.

17. Denies the allegations set forth in Paragraph 17 of the Fourth Amended Complaint, except admits the Court held in its September 9, 2021 Order that Ms. Eckhart exhausted her administrative remedies.

AS TO “JURISDICTION AND VENUE”

18. The allegations in Paragraph 18 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 18, except admits that Ms. Eckhart purports to invoke this Court’s jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

19. The allegations in Paragraph 19 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News admits that Ms. Eckhart purports to base venue in the Southern District of New York pursuant to 28 U.S.C. §1391(b).

AS TO “PARTIES”

20. Fox News denies knowledge or information sufficient to form a belief as to the truth of the allegations of sentence one of Paragraph 20 of the Fourth Amended Complaint, except admits Ms. Eckhart was employed at Fox News from January 2, 2013 until June 26, 2020. The allegations in sentence two of Paragraph 20 state legal conclusions to which no response is

required. To the extent an answer is warranted, Fox News admits that Ms. Eckhart was an employee of Fox News between January 2, 2013 and June 26, 2020.

21. The allegations in Paragraph 21 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News admits the allegations set forth in Paragraph 21.

22. The allegations in Paragraph 22 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies knowledge or information sufficient to form a belief as to the truth of the allegations regarding Mr. Henry's residency, and denies that Mr. Henry is an aider and abettor under the NYSHRL and NYCHRL as held by the Court in the order dated September 9, 2021 (Dkt. 157).

AS TO "FACTUAL ALLEGATIONS"

I. AS TO "MS. ECKHART JOINS FOX NEWS"

The allegation in Subsection I heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 23-34 of the Fourth Amended Complaint.

23. Admits the allegations set forth in Paragraph 23 of the Fourth Amended Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 24 of the Fourth Amended Complaint.

25. Denies the allegations set forth in Paragraph 25 of the Fourth Amended Complaint.

26. Denies the allegations set forth in Paragraph 26 of the Fourth Amended Complaint, except to the extent the allegations purport to quote from emails refers to the emails for their content.

27. Denies the allegations set forth in Paragraph 27 of the Fourth Amended Complaint, except to the extent the allegations purport to quote from emails refers to the emails for their content.

28. Denies the allegations set forth in Paragraph 28 of the Fourth Amended Complaint.

29. Denies the allegations set forth in Paragraph 29 of the Fourth Amended Complaint.

30. Denies the allegations set forth in Paragraph 30 of the Fourth Amended Complaint, except admits Ms. Eckhart became a Production Assistant in June 2013, and, to the extent the allegations purport to quote from a performance evaluation, refers to the document for its content.

31. Admits the allegations set forth in Paragraph 31 of the Fourth Amended Complaint.

32. Denies the allegations set forth in Paragraph 32 of the Fourth Amended Complaint, except admits that Ms. Eckhart served as a Production Assistant, then a Booker, and then an Associate Producer and was assigned duties generally associated with those positions.

33. Denies the allegations set forth in Paragraph 33 of the Fourth Amended Complaint, except to the extent the allegations purport to quote from emails, notes and performance evaluations refers to the documents for their content.

34. Denies the allegations set forth in Paragraph 34 of the Fourth Amended Complaint, except admits Ms. Eckhart was placed on a “Performance Improvement Plan” on March 6, 2020 and that Ms. Eckhart’s employment was terminated effective June 26, 2020.

II. AS TO “DEFENDANT HENRY PREYS ON MS. ECKHART”

The allegation in Subsection II heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 35 - 52 of the Fourth Amended Complaint.

35. Denies the allegations set forth in Paragraph 35 of the Fourth Amended Complaint.

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 36 of the Fourth Amended Complaint, except admits Mr. Henry was Fox News’ Chief White House Correspondent in 2014 and based out of Washington, D.C.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 37 of the Fourth Amended Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 38 of the Fourth Amended Complaint.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 39 of the Fourth Amended Complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 40 of the Fourth Amended Complaint.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 41 of the Fourth Amended Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42 of the Fourth Amended Complaint.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43 of the Fourth Amended Complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 44 of the Fourth Amended Complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 45 of the Fourth Amended Complaint.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 46 of the Fourth Amended Complaint.

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 47 of the Fourth Amended Complaint.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 48 of the Fourth Amended Complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 49 of the Fourth Amended Complaint.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 50 of the Fourth Amended Complaint.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 51 of the Fourth Amended Complaint.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 52 of the Fourth Amended Complaint.

III. AS TO “DEFENDANT HENRY SEXUALLY ASSAULTS MS. ECKHART”

The allegation in Subsection III heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 53 - 59 of the Fourth Amended Complaint.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 53 of the Fourth Amended Complaint, except admits that Mr. Henry was in the New York office of Fox in September, 2015.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 54 of the Fourth Amended Complaint.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 55 of the Fourth Amended Complaint.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 56 of the Fourth Amended Complaint.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 57 of the Fourth Amended Complaint.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 58 of the Fourth Amended Complaint.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 59 of the Fourth Amended Complaint.

IV. AS TO “DEFENDANT HENRY RAPES MS. ECKHART”

The allegation in Subsection IV heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is

warranted, Fox News incorporates its responses to Paragraphs 60 - 81 of the Fourth Amended Complaint.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 60 of the Fourth Amended Complaint.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 61 of the Fourth Amended Complaint.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 62 and denies that the allegations set forth in footnote 1 in any way relate to Paragraph 62, and to the extent footnote 1 to paragraph 62 purports to quote an email, refers to the email for its content.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 63 of the Fourth Amended Complaint.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 64 of the Fourth Amended Complaint.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 65 of the Fourth Amended Complaint.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 66 of the Fourth Amended Complaint.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 67 of the Fourth Amended Complaint.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 68 of the Fourth Amended Complaint.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 70 of the Fourth Amended Complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 70 of the Fourth Amended Complaint.

71. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 71 of the Fourth Amended Complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 72 of the Fourth Amended Complaint.

73. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 73 of the Fourth Amended Complaint.

74. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 74 of the Fourth Amended Complaint.

75. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 75 of the Fourth Amended Complaint.

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 76 of the Fourth Amended Complaint.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 77 of the Fourth Amended Complaint.

78. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 78 of the Fourth Amended Complaint.

79. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 79 of the Fourth Amended Complaint.

80. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 80 of the Fourth Amended Complaint.

81. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 81 of the Fourth Amended Complaint.

V. AS TO “FOX NEWS UNLAWFULLY TERMINATES MS. ECKHART’S EMPLOYMENT AFTER DEFENDANT HENRY’S CONTINUED HARASSMENT AND RETALIATION”

The allegation in Subsection V heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 82 - 94 of the Fourth Amended Complaint.

82. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 82 of the Fourth Amended Complaint.

83. Denies the allegations set forth in Paragraph 83 of the Fourth Amended Complaint, except denies knowledge or information sufficient to form a belief as to the truth of Ms. Eckhart’s interactions with Mr. Henry.

84. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 84 of the Fourth Amended Complaint.

85. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 85 of the Fourth Amended Complaint.

86. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 86 of the Fourth Amended Complaint.

87. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 87 of the Fourth Amended Complaint.

88. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 88 of the Fourth Amended Complaint.

89. Denies the allegations set forth in Paragraph 89 of the Fourth Amended Complaint, except admits Mr. Henry was the co-anchor of the “America’s Newsroom” program starting in December 2019.

90. Denies the allegations set forth in Paragraph 90 of the Fourth Amended Complaint.

91. Denies the allegations set forth in Paragraph 91 of the Fourth Amended Complaint.

92. Denies the allegations set forth in Paragraph 92 of the Fourth Amended Complaint, except admits Ms. Eckhart was placed on a “Performance Improvement Plan” (“PIP”) on March 6, 2020.

93. Admits the allegations set forth in Paragraph 93 of Fourth Amended Complaint, except to the extent the allegations purport to quote from an email refers to the email for its content.

94. Denies the allegations set forth in Paragraph 94 of the Fourth Amended Complaint, except admits Ms. Eckhart’s employment with Fox News was terminated on June 12, 2020, effective June 26, 2020, and that she was asked during her exit interview if she experienced sexual harassment.

VI. AS TO “FOX NEWS’ INSTITUTIONAL APATHY TOWARDS SEXUAL MISCONDUCT”

The allegation in Subsection VI heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is

warranted, Fox News incorporates its responses to Paragraphs 95 - 109 of the Fourth Amended Complaint.

95. Denies the allegations set forth in Paragraph 95 of the Fourth Amended Complaint.

96. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 96 of the Fourth Amended Complaint, except admits that the linked article included in Paragraph 96 of the Fourth Amended Complaint was published and refers to the article for its content.

97. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 97 of the Fourth Amended Complaint, except admits the linked article in Paragraph 97 of the Fourth Amended Complaint was published and refers to the article for its content and Bill Shine was Co-President of Fox News from August 2016 to May 2017.

98. Denies the allegations set forth in Paragraph 98 of the Fourth Amended Complaint, except admits that the linked articles in Paragraph 98 of the Fourth Amended Complaint were published and refers to the articles for their content.

99. Denies the allegations set forth in Paragraph 99 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 99 of the Fourth Amended Complaint was published and refers to the article for its content.

100. Denies the allegations set forth in Paragraph 100 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 100 of the Fourth Amended Complaint was published and refers to the article for its content.

101. Denies the allegations set forth in Paragraph 101 of the Fourth Amended Complaint, except admits that the linked articles in Paragraph 101 of the Fourth Amended Complaint were published and refers to the articles for their content.

102. Denies the allegations set forth in Paragraph 102 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 102 of the Fourth Amended Complaint was published and refers to the article for its content.

103. Denies the allegations set forth in Paragraph 103 of the Fourth Amended Complaint, except admits that the linked articles in Paragraph 103 of the Fourth Amended Complaint were published and refers to the articles for their content.

104. Denies the allegations set forth in Paragraph 104 of the Fourth Amended Complaint.

105. Denies the allegations set forth in Paragraph 105 of the Fourth Amended Complaint.

106. Denies the allegations set forth in Paragraph 106 of the Fourth Amended Complaint.

107. Denies the allegations set forth in Paragraph 107 of the Fourth Amended Complaint, except refers to the transcript of the referenced earnings call for its content.

108. Denies the allegations set forth in Paragraph 108 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 108 of the Fourth Amended Complaint was published and refers to the article for its content.

109. Denies the allegations set forth in Paragraph 109 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 109 of the Fourth Amended Complaint was published and refers to the article for its content.

VII. AS TO “FOX NEWS’ FAILURE TO ACT PROVIDED DEFENDANT HENRY WITH THE OPPORTUNITY TO RAPE MS. ECKHART”

The allegation in Subsection VII heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 110 - 133 of the Fourth Amended Complaint.

110. Denies the allegations set forth in Paragraph 110 of the Fourth Amended Complaint.

111. Denies the allegations set forth in Paragraph 111 of the Fourth Amended Complaint, except admits that Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul Weiss”) was retained by Twenty-First Century Fox to conduct investigations into sexual harassment issues starting in 2016.

112. Denies the allegations set forth in Paragraph 112 of the Fourth Amended Complaint.

113. Denies the allegations set forth in Paragraph 113 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 113 of the Fourth Amended Complaint was published and refers to the article for its content.

114. Denies the allegations set forth in Paragraph 114 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 114 of the Fourth Amended Complaint was published and refers to the article for its content.

115. Denies the allegations set forth in Paragraph 115 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 115 of the Fourth Amended Complaint was published and refers to the article for its content.

116. Denies the allegations set forth in Paragraph 116 of the Fourth Amended Complaint, except admits that the linked article in Paragraph 116 of the Fourth Amended Complaint was published and refers to the article for its content.

117. Denies the allegations set forth in Paragraph 117 of the Fourth Amended Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations regarding Jane Doe 4 in Paragraph 117 of the Fourth Amended Complaint.

118. Denies the allegations set forth in Paragraph 118 of the Fourth Amended Complaint.

119. Denies the allegations set forth in Paragraph 119 of the Fourth Amended Complaint

120. Denies the allegations set forth in Paragraph 120 of the Fourth Amended Complaint, except refers to any purportedly published reports for their content.

121. Denies the allegations set forth in Paragraph 121 of the Fourth Amended Complaint.

122. Denies the allegation in Paragraph 122 of the Fourth Amended Complaint that Fox News “continued to reward Mr. Henry” and denies knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations set forth in Paragraph 122.

123. Admits that the linked article set forth in Paragraph 123 of the Fourth Amended Complaint was published and refers to the article for its content.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 124 of the Fourth Amended Complaint, except denies that HarperCollins is an affiliate of Fox News.

125. Denies the allegations set forth in Paragraph 125 of the Fourth Amended Complaint, except admits Mr. Henry anchored a streaming show on Fox Nation called, “Ed Henry’s Front Row Seat”, and denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 125 regarding Mr. Henry’s business dealings with HarperCollins.

126. Denies the allegations set forth in Paragraph 126 of the Fourth Amended Complaint, except admits Mr. Henry became co-anchor of the “America’s Newsroom” program in December 2019, and the program, at the time, ran three hours Monday through Friday on national television.

127. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 127 of the Fourth Amended Complaint.

128. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 128 of the Fourth Amended Complaint.

129. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 129 of the Fourth Amended Complaint.

130. Denies the allegations set forth in Paragraph 130 of the Fourth Amended Complaint.

131. Denies the allegations set forth in Paragraph 131 of the Fourth Amended Complaint.

132. Denies the allegations set forth in Paragraph 132 of the Fourth Amended Complaint.

133. Denies the allegations set forth in Paragraph 133 of the Fourth Amended Complaint.

VIII. AS TO “DEFENDANT HENRY’S LONG HISTORY OF SEXUAL MISCONDUCT AND MISOGYNY”

The allegation in Subsection VIII heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 134 - 181 of the Fourth Amended Complaint.

A. As to “Brooke Hammerling”

134. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 134 of the Fourth Amended Complaint.

135. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 135 of the Fourth Amended Complaint.

136. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 136 of the Fourth Amended Complaint.

137. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 137 of the Fourth Amended Complaint.

138. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 138 of the Fourth Amended Complaint.

139. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 139 of the Fourth Amended Complaint.

B. As to “Roxie Marroquin”

140. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 140 and Footnote 2 of the Fourth Amended Complaint, except admits that the linked article in Footnote 2 of Paragraph 140 of the Fourth Amended Complaint was published and refers to the article for its content.

141. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 141 of the Fourth Amended Complaint.

142. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 142 of the Fourth Amended Complaint.

143. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 143 of the Fourth Amended Complaint.

144. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 144 of the Fourth Amended Complaint.

145. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 145 of the Fourth Amended Complaint.

146. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 146 of the Fourth Amended Complaint.

147. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 147 of the Fourth Amended Complaint.

148. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 148 of the Fourth Amended Complaint.

C. As to “Jane Doe 1”

149. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 149 of the Fourth Amended Complaint.

150. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 150 of the Fourth Amended Complaint.

151. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 151 of the Fourth Amended Complaint.

152. Denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 152 of the Fourth Amended Complaint.

153. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 153 of the Fourth Amended Complaint.

154. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 154 of the Fourth Amended Complaint.

155. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 155 of the Fourth Amended Complaint.

156. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 156 of the Fourth Amended Complaint.

157. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 157 of the Fourth Amended Complaint.

158. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 158 of the Fourth Amended Complaint.

159. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 159 of the Fourth Amended Complaint.

160. Denies the allegations set forth in Paragraph 160 of the Fourth Amended Complaint, except refers to the alleged “tweet” for its content.

161. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 161 of the Fourth Amended Complaint.

D. As to “Jane Doe 4”

162. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 162 of the Fourth Amended Complaint.

163. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 163 of the Fourth Amended Complaint.

164. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 164 of the Fourth Amended Complaint.

E. As to “Cathy Areu”

165. Denies the allegations set forth in Paragraph 165 of the Fourth Amended Complaint, except admits Cathy Areu appeared on several Fox News programs in or around 2017.

166. Denies the allegations set forth in Paragraph 166 of the Fourth Amended Complaint, except admits Ms. Areu appeared on “Tucker Carlson Tonight” as “The Liberal Sherpa” in 2018.

167. Admits the allegations set forth in Paragraph 167 of the Fourth Amended Complaint.

168. Denies the allegations set forth in Paragraph 168 of the Fourth Amended Complaint, except admits that the “Liberal Sherpa” segments are accessible on Fox News’ website.

169. Denies the allegations set forth in Paragraph 169 of the Fourth Amended Complaint, except admits the “The Liberal Sherpa” segment had individualized graphics and audio package.

170. Denies the allegation in Paragraph 170 of the Fourth Amended Complaint that in April 2018 Ron Mitchell was the Vice President of Primetime Programming and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 170 of the Fourth Amended Complaint, except that to the extent the allegations purport to quote from emails refers to the emails for their contents.

171. Denies the allegations set forth in Paragraph 171 of the Fourth Amended Complaint, except to the extent the allegations purport to quote from an email refers to the email for its content.

172. Denies the allegations set forth in Paragraph 172 of the Fourth Amended Complaint, except denies knowledge or information as to what Ms. Areu's agent said.

173. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 173 of the Fourth Amended Complaint, except admits that Mr. Henry served as a guest host for The Story with Martha MacCallum in May 2019.

174. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 174 of the Fourth Amended Complaint.

175. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 175 of the Fourth Amended Complaint.

176. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 176 of the Fourth Amended Complaint.

177. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 177 of the Fourth Amended Complaint.

178. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 178 of the Fourth Amended Complaint.

179. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 179 of the Fourth Amended Complaint.

180. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 180 of the Fourth Amended Complaint.

181. Paragraph 181 of the Fourth Amended Complaint refers to allegations in a federal complaint filed by Ms. Areu which have been dismissed against Fox News, to which no response is required. To the extent that a response is warranted, Fox News denies the allegations set forth in Paragraph 181 of the Fourth Amended Complaint, except admits Ms. Areu filed a complaint in federal court against Fox News and that the court dismissed Ms. Areu's complaint against Fox News and all allegations contained within it.

IX. AS TO "DEFENDANTS FURTHER RETALIATE AGAINST MS. ECKHART"

The allegation in Subsection IX heading of the Fourth Amended Complaint is a topic heading, not a numbered allegation, to which no response is required. To the extent an answer is warranted, Fox News incorporates its responses to Paragraphs 182 – 210 of the Fourth Amended Complaint.

182. Admits the allegations set forth in Paragraph 182 of the Fourth Amended Complaint.

183. Denies the allegations set forth in Paragraph 183 of the Fourth Amended Complaint.

184. Denies the allegations set forth in Paragraph 184 of the Fourth Amended Complaint.

185. Denies the allegations set forth in Paragraph 185 of the Fourth Amended Complaint, except admits that Ms. Eckhart's counsel described Ms. Eckhart's alleged rape by Mr. Henry.

186. Denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 186 of the Fourth Amended Complaint.

187. Denies the allegations set forth in Paragraph 187 of the Fourth Amended Complaint.

188. Denies the allegations set forth in Paragraph 188 of the Fourth Amended Complaint, except admits that Mr. Henry was terminated on July 1, 2020, and that Fox News announced that Mr. Henry had been terminated.

189. Denies the allegations set forth in Paragraph 189 of the Fourth Amended Complaint.

190. Paragraph 190 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 190 of the Fourth Amended Complaint, except admits Fox News announced its decision to terminate Mr. Henry's employment to Fox News employees.

191. Paragraph 191 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 191 of the Fourth Amended Complaint, and denies knowledge or information sufficient to form a belief as to the truth of the allegations regarding Ms. Eckhart's alleged therapy.

192. Paragraph 192 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 192 of the Fourth Amended Complaint.

193. Paragraph 193 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 193 of the Fourth Amended Complaint.

194. Paragraph 194 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 194 of the Fourth Amended Complaint, except admits Fox News served a motion for sanctions pursuant to Rule 11 of the Federal Rules of Procedure upon Ms. Eckhart's counsel on August 7, 2020.

195. Paragraph 195 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 195 of the Fourth Amended Complaint.

196. Paragraph 196 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 196 of the Fourth Amended Complaint, except admits Fox News filed the motion for sanctions pursuant to Rule 11 of the Federal Rules of Procedure on September 29, 2020.

197. Paragraph 197 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 197 of the Fourth Amended Complaint, except admits Mr. Henry filed a motion to dismiss Ms. Eckhart's claims on October 19, 2020.

198. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 198 of the Fourth Amended Complaint.

199. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 199 of the Fourth Amended Complaint, except refers to Court's Order dated October 21, 2020 (Dkt. 95) for its contents.

200. The allegations in Paragraph 200 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required.

201. The allegations in Paragraph 200 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required.

202. The allegations in Paragraph 202 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required.

203. The allegations in Paragraph 203 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required.

204. The allegations in Paragraph 204 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required.

205. The allegations in Paragraph 205 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required.

206. Paragraph 206 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 206 of the Fourth Amended Complaint.

207. Denies the allegations set forth in Paragraph 207 of the Fourth Amended Complaint, except to the extent the allegations purport to quote from a filing, refers to the filings in *Brown, et al. v. Fox News Network, LLC, et al.*, Index No: 22446/2017E for their content.

208. The allegations in Paragraph 208 of the Fourth Amended Complaint contain allegations against Mr. Henry to which no response by Fox News is required, except to the extent the allegations purport to quote from a filing, refers to the filings in *Brown, et al. v. Fox News Network, LLC, et al.* for their content.

209. Paragraph 209 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 209 of the Fourth Amended Complaint.

210. Paragraph 210 and Footnote 4 of the Fourth Amended Complaint contain allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 210 and footnote 4 of the Fourth Amended Complaint, and refers to the filings of the identified cases for their contents.

As to “FIRST CAUSE OF ACTION
(Sex Trafficking under 18 U.S.C. § 1591, et seq.)
Against Ed Henry

211. The allegations in Paragraph 211 are not against Fox News, to which no response is required. To the extent an answer is warranted, Fox News repeats its responses to Paragraph 1-210 of the Fourth Amended Complaint as to its response to Paragraph 211 of the Fourth Amended Complaint.

212. The allegations in Paragraph 212 are not against Fox News and state legal conclusions, both of which require no response.

213. The allegations in Paragraph 213 are not against Fox News and state legal conclusions, both of which require no response.

214. The allegations in Paragraph 214 are not against Fox News and state legal conclusions, both of which require no response.

215. The allegations in Paragraph 215 are not against Fox News and state legal conclusions, both of which require no response.

216. The allegations in Paragraph 216 are not against Fox News and state legal conclusions, both of which require no response.

217. The allegations in Paragraph 217 are not against Fox News and state legal conclusions, both of which require no response.

218. The allegations in Paragraph 218 are not against Fox News and state legal conclusions, both of which require no response.

219. The allegations in Paragraph 219 are not against Fox News and state legal conclusions, both of which require no response.

As to “SECOND CAUSE OF ACTION
(Retaliation under Title VII of the Civil Rights Act of 1964)
Against Defendant Fox News”

220. Fox News repeats its responses to Paragraph 1-219 of the Fourth Amended Complaint as to its response to Paragraph 220 of the Fourth Amended Complaint.

221. Paragraph 221 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 221 of the Fourth Amended Complaint.

222. Paragraph 222 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 222 of the Fourth Amended Complaint.

223. Paragraph 223 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 223 of the Fourth Amended Complaint.

224. Paragraph 224 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 224 of the Fourth Amended Complaint.

As to “THIRD CAUSE OF ACTION
(Hostile Work Environment, Sexual Harassment and Gender
Discrimination under the NYSHRL)
Against Defendant Fox News”

225. Fox News repeats its responses to Paragraph 1-224 of the Fourth Amended Complaint as to its response to Paragraph 225 of the Fourth Amended Complaint.

226. The allegations in Paragraph 226 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 226 of the Fourth Amended Complaint.

227. The allegations in Paragraph 227 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 227 of the Fourth Amended Complaint.

228. The allegations in Paragraph 228 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 228 of the Fourth Amended Complaint.

229. The allegations in Paragraph 229 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 229 of the Fourth Amended Complaint.

As to “FOURTH CAUSE OF ACTION
(Retaliation under the NYSHRL)
Against Defendant Fox News”

230. Paragraph 230 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News repeats its responses to Paragraph 1-229 of the Fourth Amended Complaint as to its response to Paragraph 230 of the Fourth Amended Complaint.

231. Paragraph 231 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 231 of the Fourth Amended Complaint.

232. Paragraph 232 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 232 of the Fourth Amended Complaint.

233. Paragraph 233 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for

allegations regarding termination, Fox News denies the allegations set forth in Paragraph 233 of the Fourth Amended Complaint.

234. Paragraph 234 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 234 of the Fourth Amended Complaint.

As to “FIFTH CAUSE OF ACTION
(Hostile Work Environment, Sexual Harassment and Gender
Discrimination under the NYCHRL)
Against Defendants Fox News and Ed Henry”

235. Fox News repeats its responses to Paragraph 1-234 of the Fourth Amended Complaint as to its response to Paragraph 235 of the Fourth Amended Complaint.

236. The allegations in Paragraph 236 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 236 of the Fourth Amended Complaint.

237. The allegations in Paragraph 237 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 237 of the Fourth Amended Complaint.

238. The allegations in Paragraph 238 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 238 of the Fourth Amended Complaint.

239. The allegations in Paragraph 239 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 239 of the Fourth Amended Complaint.

As to “SIXTH CAUSE OF ACTION
(Retaliation under the NYCHRL)
Against Defendant Fox News”

240. Paragraph 240 of the Fourth Amended Complaint contains allegations which have been dismissed against Fox News, to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News repeats its responses to Paragraph 1-239 of the Fourth Amended Complaint as to its response to Paragraph 240 of the Fourth Amended Complaint.

241. Paragraph 241 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 241 of the Fourth Amended Complaint.

242. Paragraph 242 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 242 of the Fourth Amended Complaint.

243. Paragraph 243 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 243 of the Fourth Amended Complaint.

244. Paragraph 244 of the Fourth Amended Complaint states legal conclusions and contains allegations regarding post-termination retaliation which have been dismissed against

Fox News to which no response is required. To the extent an answer is warranted, and for allegations regarding termination, Fox News denies the allegations set forth in Paragraph 244 of the Fourth Amended Complaint.

As to “SEVENTH CAUSE OF ACTION
(Gender-Motivated Violence Pursuant to GMVA)
Against Defendant Ed Henry

245. The allegations in Paragraph 245 are not against Fox News, to which no response is required. To the extent an answer is warranted, Fox News repeats its responses to Paragraph 1-244 of the Fourth Amended Complaint as to its response to Paragraph 245 of the Fourth Amended Complaint.

246. The allegations in Paragraph 246 are not against Fox News and state legal conclusions, both of which require no response.

247. The allegations in Paragraph 247 are not against Fox News and state legal conclusions, both of which require no response.

248. The allegations in Paragraph 248 are not against Fox News and state legal conclusions, both of which require no response.

249. The allegations in Paragraph 249 are not against Fox News and state legal conclusions, both of which require no response.

250. The allegations in Paragraph 250 are not against Fox News and state legal conclusions, both of which require no response.

As to “EIGHTH CAUSE OF ACTION
(Violations of CRL § 52-b)
Against Defendant Ed Henry

251. The allegations in Paragraph 251 are not against Fox News, to which no response is required. To the extent an answer is warranted, Fox News repeats its responses to Paragraph

1-250 of the Fourth Amended Complaint as to its response to Paragraph 251 of the Fourth Amended Complaint.

252. The allegations in Paragraph 252 are not against Fox News and state legal conclusions, both of which require no response.

253. The allegations in Paragraph 253 are not against Fox News and state legal conclusions, both of which require no response.

254. The allegations in Paragraph 254 are not against Fox News and state legal conclusions, both of which require no response.

As to “NINTH CAUSE OF ACTION
(Assault/Sexual Assault)
Against Defendant Ed Henry”

255. The allegations in Paragraph 255 are not against Fox News, to which no response is required. To the extent an answer is warranted, Fox News repeats its responses to Paragraph 1-254 of the Fourth Amended Complaint as to its response to Paragraph 255 of the Fourth Amended Complaint.

256. The allegations in Paragraph 256 are not against Fox News and state legal conclusions, both of which require no response.

257. The allegations in Paragraph 257 are not against Fox News and state legal conclusions, both of which require no response.

258. The allegations in Paragraph 258 are not against Fox News and state legal conclusions, both of which require no response.

259. The allegations in Paragraph 259 are not against Fox News and state legal conclusions, both of which require no response.

260. The allegations in Paragraph 260 are not against Fox News and state legal conclusions, both of which require no response.

As to “TENTH CAUSE OF ACTION
(Battery/Sexual Battery)
Against Defendant Ed Henry”

261. The allegations in Paragraph 261 are not against Fox News, to which no response is required. To the extent an answer is warranted, Fox News repeats its responses to Paragraph 1-260 of the Fourth Amended Complaint as to its response to Paragraph 261 of the Fourth Amended Complaint.

262. The allegations in Paragraph 262 are not against Fox News and state legal conclusions, both of which require no response.

263. The allegations in Paragraph 263 are not against Fox News and state legal conclusions, both of which require no response.

264. The allegations in Paragraph 264 are not against Fox News and state legal conclusions, both of which require no response.

265. The allegations in Paragraph 265 are not against Fox News and state legal conclusions, both of which require no response.

266. The allegations in Paragraph 266 are not against Fox News and state legal conclusions, both of which require no response.

As to “ELEVENTH CAUSE OF ACTION
(Negligence)
Against Defendant Fox News”

267. Fox News repeats its responses to Paragraph 1-266 of the Fourth Amended Complaint as to its response to Paragraph 267 of the Fourth Amended Complaint.

268. The allegations in Paragraph 268 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 268 of the Fourth Amended Complaint.

269. The allegations in Paragraph 269 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 269 of the Fourth Amended Complaint.

270. The allegations in Paragraph 270 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 270 of the Fourth Amended Complaint.

271. The allegations in Paragraph 271 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 271 of the Fourth Amended Complaint.

272. The allegations in Paragraph 272 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 272 of the Fourth Amended Complaint.

273. The allegations in Paragraph 273 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 273 of the Fourth Amended Complaint.

274. The allegations in Paragraph 274 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 274 of the Fourth Amended Complaint.

275. The allegations in Paragraph 275 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 275 of the Fourth Amended Complaint.

276. The allegations in Paragraph 276 of the Fourth Amended Complaint state legal conclusions to which no response is required. To the extent an answer is warranted, Fox News denies the allegations set forth in Paragraph 276 of the Fourth Amended Complaint.

As to “PRAYER FOR RELIEF”

Denies the allegations in the Prayer for Relief paragraph of the Fourth Amended Complaint and all the subparagraphs thereto, and further deny that Ms. Eckhart is entitled to any relief whatsoever.

As to “JURY DEMAND”

Denies the allegations set forth in the “Jury Demand” paragraph of the Fourth Amended Complaint, except admits that Ms. Eckhart purports to demand a trial by jury.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The Fourth Amended Complaint fails, and each and every allegation therein, fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Ms. Eckhart’s claims are barred, in whole or in part, by the applicable statutes of limitation and/or filing periods, and/or by Ms. Eckhart’s failure to satisfy administrative, procedural and jurisdictional prerequisites for bringing suit.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Ms. Eckhart’s claims are barred because at all relevant times Defendants acted in good faith toward Ms. Eckhart, and any actions taken toward Ms. Eckhart were for legitimate, non-discriminatory, and non-retaliatory business reasons.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Ms. Eckhart did not engage in any protected activity under Title VII, the NYSHRL, or NYCHRL, or under any of the statutes cited in the Fourth Amended Complaint, and to the extent that Ms. Eckhart did engage in protected activity, which Fox News expressly denies, no action taken with respect to Ms. Eckhart was motivated by Ms. Eckhart's engagement in protected activity.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

To the extent, if any, that Fox News engaged in conduct with respect to Ms. Eckhart, and to the extent, if any, that Fox News was motivated in part by unlawful reasons (which Fox News denies), it would have taken the same actions with respect to Ms. Eckhart for lawful, nondiscriminatory, non-retaliatory reasons.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Ms. Eckhart is not entitled to the relief sought in the Fourth Amended Complaint to the extent said relief is not available under the applicable statutes, regulations, or other relevant provisions of law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

At all times relevant hereto, including prior to the allegations that form the basis of Ms. Eckhart's claims, Fox News had established and complied with policies, programs, and procedures for the prevention and detection of unlawful discriminatory practices by employees, agents, and persons employed as independent contractors.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

Ms. Eckhart has not been damaged by any of Fox News's actions.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

At all times relevant hereto, including prior to the allegations that form the basis of Ms. Eckhart's claims, Fox News exercised reasonable care to prevent and correct promptly any

discriminatory behavior. Ms. Eckhart unreasonably failed to take advantage of the preventive and/or corrective opportunities provided by Fox News or to avoid harm otherwise.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

Defendants' liability and penalties, if any, should be mitigated by virtue of the factors set forth in Section 8-107(13)(d) and (e) of the New York City Human Rights Law.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

If damaged, which Fox News expressly denies, Ms. Eckhart has failed to make reasonable and diligent efforts to mitigate damages.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

Ms. Eckhart cannot recover liquidated damages because Fox News at all relevant times made good faith efforts to comply with all applicable anti-discrimination statutes with regard to Ms. Eckhart and any discriminatory actions or decisions (if any) by its managerial agents were contrary to those good faith efforts.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

Ms. Eckhart has failed to state a basis for an award of punitive damages.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

Ms. Eckhart's claims are barred, in whole or in part, by equitable defenses, including the doctrines of equitable estoppel, misrepresentation laches, waiver and/or unclean hands.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

The Fourth Amended Complaint is barred, in whole or in part, to the extent it contains allegations and claims that exceed those set forth in the charge of discrimination allegedly filed by Ms. Eckhart with the EEOC.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

Fox News is not vicariously liable to Ms. Eckhart for any of the acts of its employees, agents or other representatives alleged in the Fourth Amended Complaint because, to the extent that any of those individuals engaged in the conduct alleged, they were acting in their private capacities and not within the scope of their employment or agency or otherwise on behalf of Fox News.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

Ms. Eckhart's causes of action, including those based in negligence, fail because Fox News did not owe Ms. Eckhart a duty.

AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

Ms. Eckhart's causes of action, including those based in negligence, fail because the damages Ms. Eckhart alleges were not the foreseeable result of any of Fox News's conduct alleged in the Fourth Amended Complaint.

AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE

Ms. Eckhart's causes of action, including those based in negligence, fail because the damages Ms. Eckhart alleges were not caused by any of Fox News's conduct alleged in the Fourth Amended Complaint.

AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE

Fox News is not liable to Ms. Eckhart for any of the damages alleged in the Fourth Amended Complaint, but even if it were, Ms. Eckhart's recovery against Fox News would be limited by the collateral source rule, including under Section 4545 of the Civil Practice Law and Rules.

AS AND FOR A TWENTY-FIRST AFFIRMATIVE DEFENSE

Fox News is not liable to Ms. Eckhart for any of the damages alleged in the Fourth Amended Complaint, but even if it were, Ms. Eckhart's recovery against Fox News would be limited by Article 16 of the Civil Practice Law and Rules.

Dated: January 20, 2023

Respectfully submitted,

PROSKAUER ROSE LLP

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